

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3 and 421.17, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 151, “Collection of Debts Owed to the State of Iowa or a State Agency,” Iowa Administrative Code.

The proposed new rule is intended to implement Iowa Code section 421.17(32), the Director’s authority to subpoena certain records from utility companies. These records will be used to assist the Department in locating individuals who have a debt or obligation placed with the centralized collection unit of the Department. Subpoenas for these records will be issued when the Department, through reasonable efforts, has been unable to locate these individuals.

The proposed new rule provides more specific guidance on the procedures to be followed by both the Department and the utility company when such a subpoena is issued. This rule will ensure consistency in Department procedures for issuing such subpoenas. The rule will also provide better guidance to utilities about their rights and obligations with regard to such subpoenas. Finally, the prescribed procedures help ensure that account information is handled in a secure and confidential manner.

The proposed amendment will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions. Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Any interested person may make written suggestions or comments on this proposed amendment on or before April 10, 2012. Such written comments should be directed to the Iowa Department of Revenue, Policy Section, P.O. Box 10457, Des Moines, Iowa 50306.

Requests for public hearing must be received by April 10, 2012.

After review, the department has determined this rule will not have an impact on jobs.

This amendment is intended to implement Iowa Code section 421.17(32).

The following amendment is proposed.

Adopt the following **new** rule 701—151.9(421):

701—151.9(421) Subpoena of records from public or private utility companies. The director may, to the extent permissible by federal law, subpoena certain records held by a public or private utility company with respect to an individual who has a debt or obligation placed with the centralized collection unit of the department. This authority may be used only after reasonable efforts have been made by the centralized collection unit of the department to locate the individual.

151.9(1) Definitions.

a. “Public or private utility company” means a public utility, cable, video, or satellite television company, cellular telephone company, or Internet service provider.

b. “Reasonable efforts,” for purposes of this rule, will be considered complete when the following procedures have been performed by the department:

- (1) The department has received returned and undeliverable mail sent to the individual’s most recent address known to the department; and
- (2) The department has attempted to reach the individual at the listed telephone number and discovered that the telephone number is incorrect or the telephone has been disconnected.

151.9(2) Procedure for issuing a subpoena.

a. The department will serve a subpoena on the utility on or about the same date a data file is submitted for processing, and the subpoena will be sent to the utility's designated recipient for service of process. The subpoena will include language indicating the director's authority to make the request, the name of the file submitted for processing, the information to be provided for each individual, the expected response date, and the department's contact information. The department will provide the utility company with a data file including social security numbers, names, and last-known addresses in a mutually agreed-upon format.

b. The data file will be transmitted in a secure file transfer method agreed upon by both parties. The utility company will match the data file against its current customers and return the current last name, first name, middle name, address 1, address 2, city, state, ZIP code and telephone number for any current customer information that matches the social security number and designated characters of the last name. The department will not request or require any information from the utility company other than the current address and telephone number.

c. Within 30 days of receiving the department's data file, the utility company will process and return the data file to the department using the secure file transfer process.

d. When the data file is returned, the department will match the returned data with the social security number and designated characters of the current customer's last name before updating its collections system with the new address or telephone number.

e. The department will use the address and telephone number received from the utility company to contact the individual for collection purposes.

151.9(3) Confidentiality. The utility company must keep confidential all records received from the department. After the department has received the requested information from the utility company, the utility company must delete the data files it received in a secure manner. The department must keep confidential all records received from the utility company in compliance with all applicable state and federal laws regarding individual privacy and the privacy rights of public and private utility companies.

This rule is intended to implement Iowa Code section 421.17(32).